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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
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11 DAVID BLAKE; ROLANDO LUGO;  
12 BRITON DAVIS; TASHYIA SMITH; KYLE  
13 DAVIS; MARCO GUTIERREZ; GIOVANNI  
LOPEZ; AND ERIC KINDER,

14 Plaintiffs,

15 v.

16 CHEMTRADE WEST US, LLC, and DOES 1  
through 10,

17 Defendants.  
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Case No. 4:20-cv-07577-KAW

**[PROPOSED] ORDER GRANTING  
DEFENDANT'S PARTIAL MOTION TO  
DISMISS AND/OR STRIKE PLAINTIFFS'  
THIRD AMENDED COMPLAINT**

Hearing Date: July 1, 2021

Hearing Time: 1:30 p.m.

Hearing Location: TBD

The Court, having considered defendant CHEMTRADE WEST US LLC's ("defendant") Motion to Dismiss and/or Strike plaintiffs' Third Amended Complaint; Memorandum of Points and Authorities; and having reviewed the exhibits, and for GOOD CAUSE shown, GRANTS defendant's Motion and ORDERS:

1. Plaintiffs' state law claims for failure to pay overtime wages fail as a matter of law and must be dismissed because they are based on rights "arising" from the Collective Bargaining Agreement ("CBA"), not under state law, and are therefore *per se* preempted by Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 ("Section 301").

2. Plaintiffs' state law claims for failure to pay overtime wages fail as a matter of law and should be dismissed because they are preempted by Section 301 as they require interpretation of the applicable CBA.

3. Plaintiffs' Cause of Action for violation of the Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq., fails as a matter of law because plaintiffs have not alleged that there is an inadequate remedy at law and they therefore fail to state a claim for restitution.

Based on the foregoing, the Motion is GRANTED.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

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Hon. Kandis A. Westmore  
Magistrate Judge, United States District Court

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